

Application No. 10/564,553  
Attorney Docket No. 0837/0192PUS1  
Response to Final Office Action dated 1 May 2008  
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### **REMARKS**

Favorable reconsideration and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks. Claims 1-3 remain present in this application.

#### **Entry of Amendments**

It is respectfully submitted that the foregoing amendments do not contain new matter, nor do they raise new issues. In particular, the claims have been amended to overcome the 35USC112 problems pointed out by the examiner. Since these are directed to corrections of language problems, no new issues are presented. As such, the Examiner is respectfully requested to enter the amendment.

#### **Rejection under 35 USC 112**

Claims 1-3 stand rejected under 35 USC 112, second paragraph. This rejection is respectfully traversed.

In view of the foregoing amendments, it is respectfully submitted that the claims particular point out and distinctly claim the subject matter of the instant invention. Each of the problems pointed out by the examiner has been addressed. Reconsideration and withdrawal of the 35 USC 112, second paragraph rejection are respectfully requested.

#### **Rejection under 35 USC 103**

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Claims 1-3 stand rejected under 35 USC 103 as being unpatentable over Hytönen, U.S. Patent 5,529,193. This rejection is respectfully traversed.

First, applicant wishes to point out that the reference is the earlier work of the same inventor and is the US equivalent of the Finland patent 89155 discussed in the background of the invention. Many of the preliminary steps of the present invention are included in this reference. However, the present invention goes farther by calculating the stopping distance for the crane at each point in time and calculating how this stopping can occur without swinging the load. This concept is not even hinted at in the reference.

The examiner has stated that it would be obvious to use the mathematical formula recited in the claims with the teachings of the reference since the formulas by themselves do not define patentable subject matter. The examiner relies on three case, the latest of which is from 1978. The examiner has ignored the 1981 case of *Diamond v. Diehr* where the calculation of a variable used in a process of molding a rubber tire made the claim allowable where the remaining steps were known physical steps. Applicant suggests that the examiner has applied the wrong holdings and that weight should be given to these steps of calculating distances. Once these steps are given weight, it is clear that the claims are not obvious over the reference, since there is no hint of performing these steps in the reference. Accordingly, this rejection is believed to be overcome.

#### Conclusion

Favorable reconsideration and an early Notice of Allowance are earnestly solicited.

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Because the additional prior art cited by the Examiner has been included merely to show the state of the prior art and has not been utilized to reject the claims, no further comments concerning these documents are considered necessary at this time.

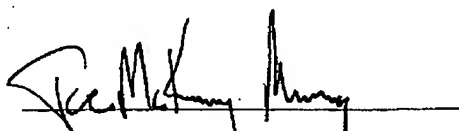
Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), the Applicants respectfully petition for a one (1) month extension of time for filing a response in connection with the present application.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Joe McKinney Muncy, Applicants' Attorney, at 703.621.7140 so that such issues may be resolved as expeditiously as possible.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3828 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; in particular, extension of time fees.

Date: September 2, 2008

Respectfully submitted,



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